

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
SEVENTEENTH REGION

Oklahoma City, Oklahoma

USF DUGAN INC. 1/

Employer

and

Case 17-RC-12374

TEAMSTERS LOCAL 886 2/

Petitioner

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. 3/
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. 4/
3. The labor organization(s) involved claim(s) to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act: 5/

All full-time and regular part-time drivers, dockmen, and OS&D clerks employed by the Employer at its facilities located at 5919 Southeast 74<sup>th</sup> Street, Oklahoma City, Oklahoma; 329 Barbara Street, Lone Grove, Oklahoma; and 429 East Simpson, Lawton, Oklahoma, the only facilities involved herein, but excluding all other employees, professional employees, guards and supervisors as defined by the Act.

**DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any

economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by

TEAMSTERS LOCAL 886

#### LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. **Excelsior Underwear, Inc.**, 156 NLRB 1236 (1966); **N.L.R.B. v. Wyman-Gordon Company**, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision, 2 copies of an election eligibility list, containing the names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned/Officer-in-Charge of the Subregion who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, 8600 Farley Street - Suite 100, Overland Park, Kansas 66212-4677 on or before **June 21, 2005**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

#### RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **June 28, 2005**.

Dated June 14, 2005

at Overland Park, Kansas

/s/ D. Michael McConnell  
Regional Director, Region 17

- 1/ The Employer's name appears as amended at the hearing.
- 2/ The Petitioner's name appears as amended at the hearing.
- 3/ Based on the entire record, it appears that the sole issue herein is the Employer's disagreement about the potential dates on which the election should be held. The date of the election will be determined administratively, and will not be addressed in this Decision and Direction of Election. CHM 11301.4 Representation Proceedings. During the course of the hearing, the parties were specifically advised that the appropriate election date was not subject to litigation during the representation hearing. However, the parties were also informed that, after the close of the hearing, the Regional Director would take into consideration any information pertaining to an appropriate election date submitted administratively by either party. Accordingly, an appropriate election date will be selected after consideration of any additional information, but consistent with the criteria and requirements of CM 11302.1. As a result, the Employer's request in its brief to reopen the record for the purpose of presenting evidence regarding the election date is denied.
- 4/ Based on the following commerce facts, the parties stipulated that the Employer is engaged in commerce within the meaning of the Act, and is subject to the jurisdiction of the National Labor Relations Board. The Employer is a Kansas Corporation engaged in the business of trucking, with facilities located at 5919 Southeast 74<sup>th</sup> Street, Oklahoma City, Oklahoma; 329 Barbara Street, Lone Grove, Oklahoma; and 429 East Simpson, Lawton, Oklahoma. During the past calendar year, the Employer purchased and received at its Oklahoma facilities goods valued in excess of \$50,000 directly from points outside the State of Oklahoma.
- 5/ The parties stipulated that the petitioned-for unit is an appropriate unit, and additionally stipulated that employees Kimberly Thomas and Amanda Thomas, who are employed in the classification of OS & D Clerk, are not supervisors within the meaning of the Act, and are

appropriately included in the petitioned-for unit. Based on the parties' stipulation, the classification of OS&D Clerk will be included in the appropriate unit. The parties further stipulated that all full-time and regular part-time drivers, dockmen, and OS&D clerks employed at the Employer's satellite facilities located at 329 Barbara Street, Lone Grove, Oklahoma; and 429 East Simpson, Lawton, Oklahoma should be included in the appropriate unit. Based on the parties' stipulation, the drivers, dockmen, and OS&D clerks at the satellite facilities located at 329 Barbara Street, Lone Grove, Oklahoma; and 429 East Simpson, Lawton, Oklahoma, will be included in the appropriate unit. Finally, the parties stipulated that Tim Sailsbury, Victor Handley, and Jim Driskill are supervisors within the meaning of Section 2(11) of the Act because they have the authority to hire, fire, transfer, suspend, layoff, recall, promote, assign, reward or discipline other employees, or can effectively recommend such action, and that they utilize independent judgment to perform these actions. Based on the stipulation of the parties pertaining to the authority possessed by Sailsbury, Handley, and Driskill, I will exclude them from the unit found appropriate.